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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,040	08/22/2001	Claude Maurice Dreulle		8639

466 7590 09/30/2003

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EXAMINER

KALAFUT, STEPHEN J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,040

Applicant(s)

DREULLE ET AL.

Examiner

Stephen J. Kalafut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-29 is/are pending in the application.
- 4a) Of the above claim(s) 10-21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-29 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Claims 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims depend from cancelled claim 1, and would therefore be incomplete.

Claims 10, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugaya, for reasons of record.

Claims 10, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bannister, for reasons of record.

Claims 10, 11 and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Vutetakis *et al.*, for reasons of record.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Sugaya or Vutetakis *et al.*, each in view of Beckley, for reasons of record.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Sugaya or Vutetakis *et al.*, each in view of Kouzu *et al.*, for reasons of record.

Claims 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright (US 5,038,942).

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Wright discloses a box with a top (8), a bottom (9), and several sidewalls (1 through 5) extending in parallel between the top and bottom. Each sidewall includes both vertical and horizontal sections, which form a series of projecting support elements that cooperate with support elements on an adjacent sidewall to support an article (7). These vertical and horizontal sections would also constitute longitudinal folds in the walls. Recitations of intended use, such as “for a set of electric storage batteries” and “for an electric vehicle” do not distinguish.

Claims 22-29 are allowed. These claims recite the presence of batteries as well as the box, and the spatial relationships between them which are not disclosed by the prior art of record or newly applied above. Since these claims actually require the batteries to be present, the recited spatial relationships are given patentable weight.

Applicant's arguments filed 7/28/03 have been fully considered but they are not persuasive.

Applicant argues that Sugaya discloses shelves which support a removable support, which in turn supports batteries. This is not persuasive because the claims rejected under Sugaya do not require the presence of batteries. Thus, recitations of whether the batteries contact the support elements directly or indirectly are not given weight. Also, the opposing shelves and removable part may be viewed collectively as a support unit, formed jointly by all these parts.

Applicant argues that Bannister does not disclose a top and bottom. One of the planks (4) disclosed by Bannister is sitting on and above the sidewalls (1), and would therefore constitute a

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top. Since the device of Bannister sits on a floor and is joined to a rear wall (3), the floor itself would constitute the bottom. See column 1, lines 53-59.

Applicant argues that the constraint member (513) disclosed by Vutetakis *et al.* is a single support connected to both sidewalls, and that this is not a series of support members projecting from opposite sidewalls to each form a support jointly with a member from the opposing sidewall. This is not persuasive because the present claims do not preclude the support members projecting from the walls to contact each other, or even to be integral with each other.

Root and Bell are withdrawn because they do not disclose any top for their respective support units. Applicants do not argue Beckley and Kouzu *et al.* specifically.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 703-308-0433. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 703-308-2383. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

sjk


STEPHEN KALAFUT
PATENT EXAMINER
GROUP
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